
HOUSE BILL No. 1562

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-50-2-11.

Synopsis: Enhanced penalties for certain offenses. Provides that a person convicted of an offense involving the use of a firearm or destructive device may receive an additional term of imprisonment. Prohibits a person sentenced to an additional fixed term from: (1) receiving a suspended sentence; (2) receiving credit time; or (3) being assigned to a community transition program.

Effective: July 1, 2003.

Moses

January 16, 2003, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1562

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-50-2-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **As used in this**
3 **section, "destructive device" has the meaning set forth in**
4 **IC 35-47.5-2-4.**

5 (b) As used in this section, "firearm" has the meaning set forth in
6 IC 35-47-1-5.

7 (b) (c) As used in this section, "offense" means:

8 (1) a felony under IC 35-42 that resulted in death or serious bodily
9 injury;

10 (2) kidnapping; or

11 (3) criminal confinement as a Class B felony.

12 (c) (d) The state may seek, on a page separate from the rest of a
13 charging instrument, to have a person who allegedly committed an
14 offense sentenced to an additional fixed term of imprisonment if the
15 state can show beyond a reasonable doubt that the person knowingly or
16 intentionally used a firearm **or destructive device** in the commission
17 of the offense.



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(d) (e) If the person was convicted of the underlying offense in a jury trial, the jury shall reconvene to determine if the person knowingly or intentionally used a firearm or destructive device in the commission of the offense. If the trial was to the court or the judgment was entered on a guilty plea, the court alone shall make the determination.

(f) If after a sentencing hearing a court finds that the jury (in a case tried by a jury) or the court (in a case tried by a court or on a judgment entered on a guilty plea) determines beyond a reasonable doubt that a person who committed an offense used a firearm or destructive device in the commission of the offense, the court may shall sentence the person to an additional fixed term of imprisonment of five (5) years as follows:

(1) Ten (10) years if the person has one (1) prior unrelated felony conviction.

(2) Twenty (20) years if the person has two (2) prior unrelated felony convictions.

(3) Life imprisonment without parole if the person has three (3) prior unrelated felony convictions.

(g) A person accumulates prior unrelated felony convictions in the following manner:

(1) The third prior unrelated felony conviction is committed after sentencing for the second prior unrelated felony conviction.

(2) The second prior unrelated felony conviction is committed after sentencing for the first prior unrelated felony conviction.

(h) A court may not suspend an additional fixed term under subsection (f)(1) or (f)(2).

(i) Notwithstanding IC 35-50-6-4, a person sentenced to an additional fixed term under subsection (f)(1) or (f)(2) is assigned to Class III.

(j) Notwithstanding IC 11-10-11.5, a person sentenced to an additional fixed term under subsection (f)(1) or (f)(2) is not eligible for assignment to a community transition program.

SECTION 2. [EFFECTIVE JULY 1, 2003] IC 35-50-2-11, as amended by this act, applies to offenses committed after June 30, 2003.

